

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)		
)	Criminal No.	04-10237-NG
v.)		
)		
RAMON DIAZ)		
)		
)		

**GOVERNMENT’S OPPOSITION TO DEFENDANT’S MOTION FOR
RECONSIDERATION OF DETENTION**

The United States of America, by Assistant U.S. Attorney Kimberly West, hereby submits its Opposition to Defendant’s Motion for Reconsideration of Detention filed by Defendant Ramon Diaz (“Diaz”). As explained below, this Court should deny Diaz’s Motion because Diaz poses a danger to the community and a risk of flight.

A. Danger to the Community

In March 1999, as a result of a search warrant executed at his home, Diaz was arrested by the New Bedford Police Department for drug and gun offenses. (See Attachment A). A small child and a juvenile were present at the home during the search that revealed drugs and a gun in the basement. Less than six months later, as a result of another search warrant executed at his home, Diaz was again arrested for drug and gun offenses. Although both children were again present at the home, the contraband was found in a location other than Diaz’s home. (See Attachment B). Diaz was ultimately convicted of both set of offenses and was committed to state prison for 4 - 5 years. Diaz was released on March 28, 2004 and was arrested for the instant offense less than one year later.

Diaz offers ten letters of reference. All uniformly state that he is not a danger to the

community. Two of the letters are from individuals for whom Diaz performed construction work and one from his landlord and another from his parents' pastor. All four of these individuals have know Diaz for two years or less and know Diaz from either a business perspective or first through his family. None of these individuals can address whether Diaz, in his personal life, is a danger to the community.

Three of the individuals who provide letters of reference indicate that they have known Diaz for three and five years. They suggest that they know him on a personal level and indicate that he is a good person and is not a threat to the community. The relationships with these people must have been formed while Diaz was stilling serving prison time for possession of drugs with the intent to sell and the possession of a firearm. Diaz was released from prison on March 28, 2004. One of letters is dated December 2004 and the other two dated March 2005. Consequently, any relationship he may have had with this people would have been based on only one year of personal and consistent contact and in the case of Heather Crosby, only ten months.

The last three individuals who offer letters of reference are Diaz's brother-in-law, younger brother and friend of eighteen years. Perhaps these individuals would be in the best position to offer an opinion of whether Diaz is a danger to the community. However, their opinions must be balanced against their obvious allegiance to a family member and close friend.

The most objective view of whether Diaz poses a threat to the community is his criminal history. Significantly, the crimes for which he is now being held are exactly the same as those for which he served time. It is also noteworthy that his past crimes occurred in the same exact community into which he now wishes to be released.

B. Risk of Flight

Diaz was born in Puerto Rico in 1957 and moved to New Bedford in 1994. He visited

Puerto Rico as recently as 1999 and at least two of his children and a former wife still live there. If convicted of the instant offense, Diaz faces a minimum mandatory of five years in federal prison. If convicted as a career offender, he faces significantly more.

Diaz has substantial ties to a place which is close to a number of communities to which he could flee. Although he has served time in the past, the amount pales in comparison to the potential imprisonment he faces here.

For the above reasons, the Government respectfully requests that this Court deny defendant's motion.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Kimberly P. West
KIMBERLY P. WEST
Assistant U.S. Attorney

DATE: September 22, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney for defendant Ramon Diaz, Raymond O'hara, 1 Exchange Place, Worcester, MA on September 22, 2005, by first class mail.

/s/ Kimberly P. West
Kimberly P. West
Assistant U.S. Attorney